

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 5TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR JUSTICE A.J. SADASHIVA

WRIT PETITION NO.20687/1992

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BETWEEN:

1. Smt Akkamma, W/o Lingappa Gowda,
aged 59 years.
2. Sheenappa, aged 42 years.
3. Monappa, aged 39 years.
4. Thimmappa, aged 36 years.
5. Babu, aged 33 years.
6. Padmavathi, aged 26 years.
7. Sheelavathi, aged 24 years.
8. Achutha, aged 24 years.

Petitioners 2 to 8 are children
of Lingappa Gowda, and residents
of Alinja, Bellippady village,
P.O. Kodimbady, Puttur Tq.
D.K. District.

... PETITIONERS

[By Sri.M. Ram Bhat, adv.for petitioners]

AND:

1. Smt Ummakke, W/o Somappa Shetty,
aged about 65 years.
2. Smt Yamuna, W/o Marappa Shetty,
aged about 52 years.
3. Kotiappa Shetty, aged 46 years.
4. Smt Thukrappa Shetty, aged 40 years.
5. Smt Lalitha, aged about 28 years.

RESPONDENTS CONTD..

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Respondents 3, 4 and 5 are children of Somappa Shetty, Respondents 1 to 5 are residents of Arbi in Bellippady village, P.O.Kodimbady, Puttur Taluk, D.K. District.

6. Smt Girija, W/o Narayana Rai, Adult, R/o Kallige, P.O.Kallige, Bamtwa; Tk. D.K. Dist.
7. Vishwanath Rai, S/o Kantha Rai, Adult, R/o Bedrala, Kemminje Village & Post, Puttur Tk, D.K. Dist.
8. The Land Tribunal, Puttur, D.K. Dist. represented by Chairman/Secretary Puttur, D.K.
9. State of Karnataka, represented by Secretary, Revenue Department, M.S. Buildings, Dr.Ambedkar Road, Bangalore-1.

... RESPONDENTS

[By Sri.K. Vittala Shetty, Adv.for R1, R4 and R5, Sri.K.H. Jagadish, HCGA for R8 and R9]

This Memorandum of Writ Petition is filed under Articles 226 and 227 of the Constitution of India, praying to quash the Order No.LRY/T 5184/74-75 dated 3-4-89 passed by the Land Tribunal, Puttur.

The petition coming on for hearing this day, the court made the following order:

ORDER

Sri Lingappa Gowda, husband of the first petitioner claimed to be the rival tenant in respect of the land measuring 0-6 cents in Sy.No.28/3A situated in Bellippadi village. He filed an application in Form No.7 to register him as an occupant in respect of 2 acres of land in the said survey number along with other two survey numbers. Further the Land Tribunal by its order

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dated January 24, 1967 registered him as an occupant in respect of two acres 45 cents in village of Bellurpadi village. One Ramappa Shetty, husband of the first respondent also filed form No. 1 against the same landlord to register him as an occupant in respect of certain survey numbers. It is no doubt ^{clearly} in his application he did not mention Sy.No.2873A as the land for which he claims tenancy. As is in vogue in Dakshin Kannada District the Land Tribunal passed an order directing to register him as an occupant in respect of 0-6 cents of land in Sy.No.2873A which is more particularly known as KATTI HUNI in view of the report of the Revenue Surveyor. The owner of the land gave evidence on May 17, 1976 that the husband of respondent no.1 was the tenant in respect of the said 0-6 cents of land. The petitioner and others aggrieved by the order of the Land Tribunal in favour of the husband of the first respondent filed a petition before this court. This court ^{Intervenor} set aside the order of the husband of the first respondent in so far as it relates to 0-6 cents of land and remitted the matter to the Land Tribunal for fresh disposal. After remand the Land Tribunal examined the parties and passed the impugned order to register the husband of the first

2. The only contention raised by the petitioners in this petition is that the impugned order is contrary to Form No.7 filed by the husband of the first respondent. It is their contention that the husband of the first respondent did not file Form No.7 in respect of Sy.No.28/3A and therefore, the impugned order is unsustainable. The contention of the petitioners is untenable in law in view of the practice prevailing in Dakshina Kannada District. In Dakshina Kannada District no one is certain about the extent of land in their actual possession in a particular survey number. The Land Tribunal in deciding the matters on the basis of the evidence of the parties and the report of the revenue surveyor should have determined the actual cultivation, actual extent of land cultivated by the applicants. Only on the basis of report of the revenue surveyor the husband of the first respondent was registered as an occupant in respect of 2 acres 45 cents of land in Sy.No.28/3A even though his application is only respect of 2 acres of land. It is not the case of the petitioners that the land granted in favour of the first respondent forms part and parcel of the lands

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granted in their favour. So long as the petitioners continued to enjoy the land granted in their favour, the registration of husband of the first respondent as occupant in respect of the land in question would cause no prejudice to the petitioners. As the order is not challenged by the Land ~~tribunal~~ ^{lord} it is not open to the petitioners to contend that the order is unsustainable in law.

3. The petition, therefore, fails and accordingly rejected. Rule discharged.

4. In the circumstances of the case, there is no order as to costs.

Sd/-
JUDGE

sub.

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